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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

Jawann Lindsey
 (Full Name)

PLAINTIFF

vs.

Thomas Patterson, DIR. UT. D.O.C.

Warden Bigelow, UT. D.O.C.,

Warden L. BUSIO, UT. D.O.C.,

DR. GARDEN, Medical DIR. UT. State PRISON,
 et al. named and unknown as yet,
 DEFENDANTS.

RECEIVED CLERK

FEB 13 2013

U.S. DISTRICT COURT

FEB 15 2013
 D. MARK JONES, CLERK
 BY DEPUTY CLERK
 CIVIL RIGHTS COMPLAINT
 (42 U.S.C §1983, §1985)

Case: 2:13cv00119

Assigned To : Sam, David

Assign. Date : 2/13/2013

Description: Lindsey v. Patterson et al

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

- a. ☒ 42 U.S.C. §1983
 b. ☐ 42 U.S.C. §1985
 c. ☐ Other (Please Specify) _____

2. NAME OF PLAINTIFF Jawann Lindsey
 IS A CITIZEN OF THE STATE OF Utah

PRESENT MAILING ADDRESS: POB 250, DRAPER, UT 84020

3. NAME OF FIRST DEFENDANT Thomas Patterson

IS A CITIZEN OF The State of Utah, U.S.A.
(City and State)

IS EMPLOYED AS Director of Corrections at Utah Dept. of Corrections.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

This defendant was working in this position during the time in which all of the claimed events took place, and he was responsible for the actions of his employees, and the denial of plaintiff's rights.

4. NAME OF SECOND DEFENDANT (Warden Bigelow) and (Warden Fusio)
(If applicable)

IS A CITIZEN OF The State of Utah, U.S.A.
(City and State)

IS EMPLOYED AS Warden Utah State Prison at Utah Dept. of Corrections.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

This defendant was working in this position during the time in which all of the claimed events took place, and he was responsible for the actions of his employees and the denial of plaintiff's rights.

5. NAME OF THIRD DEFENDANT Dr. Richard Gorden
(If applicable)

IS A CITIZEN OF The State of Utah
(City and State)

IS EMPLOYED AS Medical Director at Utah State Prison.

Name of Fifth Defendant Warden Pope

Is a citizen of the State of Utah, and is employed as Deputy Warden, Conquest at the Utah State Prison and was acting under the authority and color of state law at the time these claims of constitutional deprivations occurred, and is responsible for his actions and the denial of plaintiff's rights.

Name of the Sixth Defendant Captain Johnson

Is a citizen of the State of Utah, and is employed as Capt. of Conquest at the Utah State Prison and was acting under the authority and color of state law at the time these claims of constitutional deprivations occurred, and is responsible for his actions and denial of plaintiff's rights.

Name of Seventh Defendant Captain Starks

Is a citizen of the State of Utah, and is employed as Capt. of Ogden 304 facility at the Utah State Prison and was acting under the authority and color of state law at the time these claims of constitutional deprivation occurred, and is responsible for his actions and denial of plaintiff's rights.

Name of Eighth Defendant Kennan Tubbs

Is a citizen of the State of Utah, and is employed as Medical Doctor at the Utah State Prison and was acting under authority and color of state law at the time these claims of constitutional deprivation occurred, and is responsible for his actions and denial of plaintiff's rights.

Name of Ninth Defendant Sidney Roberts Is a citizen of the state of Utah, and is employed as Medical Doctor at the Utah State Prison and was acting under the authority and color of state law at the time these claims of constitutional deprivations occurred, and is responsible for his actions and the denial of plaintiff's rights.

Name of the tenth Defendant Kurt Umbrell Is a citizen of the state of Utah, and is employed as Physicians Assistant at the Utah State Prison and was acting under the authority and color of state law at the time these claims of constitutional deprivations occurred, and is responsible for his actions and the denial of plaintiff's rights.

Name of tenth Defendant Chris Abbott Is a citizen of the State of Utah, and is employed as Physicians Assistant at the Utah State Prison and was acting under the authority and color of state law at the time these claims of constitutional deprivations occurred, and is responsible for his actions and the denial of plaintiff's rights.

The names of approximately ten (10) other as yet unknown guards or Medical personnel who may be responsible for endangering the plaintiff's health and denying him such constitutional rights as the Court may determine while acting under authority and color of state law, 1. 2. 3. 4. 5. 6. 7. 8. 9. 10.

(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

This defendant was working in this position during the time in which all of the claimed events took place, and he was responsible for the actions of his employees and the denial of plaintiff's rights.

6. NAME OF FOURTH DEFENDANT L. BUSIO
(If applicable)

IS A CITIZEN OF The State of Utah
(city and State)

IS EMPLOYED AS Deputy Warden at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

This defendant was working in this position during the time in which all of the claimed events took place, and he was responsible for the actions of his employees and the denial of plaintiff's rights.

(Use additional sheets of paper if necessary.) See additional pages of defendants.

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

Since plaintiff entered the Salt Lake Regional Medical Center for blunt force trauma to the head on 5-2-10 he has experienced dizziness and seizures. Plaintiff informed prison medical care providers of seizures but they did not make sure he remained in a bottom bunk. He has fallen off the bunks, has received injuries requiring pain medication, but has been repeatedly refused pain meds. After grievances, and many trips to the Medical Dept. he has been treated as if he does not have seizures even though they have been witnessed by officers and prisoners.

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: Deliberate Indifference, Cruel and Unusual Punishment.

- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

As director of the Utah Department of Corrections Thomas Patterson was/is responsible for all the separate departments, in this case the Medical Dept., throughout the prison system. He should have known of plaintiff's medical problems, or that a problem existed, from all of the grievances that Lindsey filed. He could have fired or ordered that he receive proper care, (See Exhibit #7 Inmate Grievance Forms).

Warden's Bigelow and Busio were also aware of plaintiff's problems through the several grievances he filed, Exhibit #2, detailing the facts that he was repeatedly being housed on top bunks, that he wasn't being given medication for seizures and pain from falling off his bunk(s) or onto the floor. These defendants helped facilitate plaintiff's pain and suffering when they could easily have ordered their employees to help him manage his physical and neurological problems.

b. (1) Count II: Deliberate Indifference, Cruel and Unusual Punishment.

- (2) Supporting Facts: DR. GARDEN is the Director of the prison's medical services and all employees who work there. After several grievances were filed complaining of ill treatment and denial of pain medication and seizure medication by the plaintiff, this defendant should have at least made sure that he received medications that would help alleviate his pain more than just acetaminophen. Plaintiff's back pain was a result of his seizures and falling off his bunk(s) or onto the floor. Plus he was never given proper medication for his seizures. Plaintiff's many attempts to obtain real help to manage his problems have failed. DR. Garden's employees gave him a two month lay in and bottom bunk order (See Exhibits #4 & 3). Plaintiff's extensive head trauma as seen in (Exhibit #1) along with falling out of bunk(s) or onto the floor, coupled with officers and prisoner witnesses, (See Exhibits #5 & 2), indicate serious problems.

c. (1) COUNT III: Deliberate Indifference, CRUEL and UNUSUAL PUNISHMENT, and DUE PROCESS.

(2) Supporting Facts: Defendants Kennon Tubbs, Sidney Roberts, Kurt Umbrell, and Chris Abbott, collectively and individually were/are responsible for seeing that the plaintiff received good medical care as he was/is at the mercy of their care by forced choice there being no other health care providers available to choose from. By providing the pain medication Loratab for two months only, then prescribing Tylenol for the pain he was suffering in his back, shoulder, and the lack of sensation in his left arm, they left the pain that plaintiff felt on a daily basis, many day it was incapacitating. They failed to prescribe any effective anti seizure medication. (Please see Exhibit #8), also Exhibits #1 and #5. I had a grievance against Kurt Umbrell and they made me keep seeing him.

d. (1) COUNT IV: Deliberate Indifference, CRUEL and UNUSUAL PUNISHMENT, Denial of DUE PROCESS.

(2) Supporting Facts: Defendants Bigelow, Busio, Pope, Johnson, and Starks, are all responsible for their individual facilities and the Officers who work in them, included is the ten (10) as yet unknown guards, and the placement and special needs of the prisoners who are housed in them.

The plaintiff informed the prison's medical and housing personnel that he had been experiencing seizures, and that

continued →

Continued

d. (1) Count IV: Deliberate Indifference, Cruel and Unusual Punishment, denial of Due Process.

Continued

(2) Supporting Facts: he need a bottom bunk for safety.
He presented the Medical records detailing the head and body trauma just before his entry into the prison system. This however seemed not to be enough.
Plaintiff was placed on the top bunk in every facility he was housed in. He was not given seizure medication, and he sustained injuries as a result.

This still happened even though there was a bottom bunk order finally given by the Medical Dept.

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

I have suffered with pain in my back and shoulder for almost two years. I have experienced a lack of feeling in my arm and hand for the same period.

I have had to suffer seizures for the whole time I was in prison without any medication to eliviate them.

I have to suffer top bunks and the danger in being housed on them.

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment? YES _____ / NO X. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

a. Parties to previous lawsuit:

Plaintiff(s): N/A

- Defendant(s): N/A
- b. Name of court and case or docket number: _____
- c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) N/A
- d. Issues raised: N/A
- e. When did you file the lawsuit? N/A
Date Month Year
- f. When was it (will it be) decided? _____
2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES ☒ / NO _____. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

I have filed at least three grievances on the issues complained of in this 1983 civil action. I have also visited the Medical Department many times trying to get the proper treatment.

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:

a. That an attorney be appointed to my case.
b. That I be allowed to proceed in in forma pauperis status.
c. That punitive damages be awarded in the amount of \$1,000,000.00 for the acts and inactions of the named defendants collectively and individually.

d. That the Court Rule the defendants violated plaintiffs rights.
c. That an evidentiary hearing be held to determine the facts
and allegations in this complaint.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C §1621.

Executed at Dreper UT on 2-5 2013.
(Location) (Date)

Signature

Notary Public

